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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,697	08/30/2001	Armin Amrhein	A34463 (071308.0222)	9229

31625 7590 09/21/2005

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EXAMINER

CHANG, SUNRAY

ART UNIT PAPER NUMBER

2121

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,697

Applicant(s)

AMRHEIN ET AL.

Examiner

Sunray Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20050627.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. This office action is in responsive to the paper filed on June 27th, 2005.

2. Claims 6 – 15 are presented for examination.

Claims 6 – 15 are rejected.

Claims 1 – 5 are cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 6 – 15 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Steven J. Altschuler (U.S. Patent No. 6,778,971 and referred to as **Altschuler** hereinafter), and in view of Terrence L. Blevins (U.S. Patent No. 6,445,963 and referred to as Blevins hereinafter).

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(**Altschuler** as set forth above generally discloses the basic inventions.)

Regarding independent claims 6 , 10 and 13 – 14,

Altschuler teaches,

- A method for the integrating a plurality of automation components in a uniform running level model of a respective runtime system (RTS) of an industrial controller (S); [Abstract, Col. 1, Lines 9 – 20, Col. 6, Line 67 – Col. 8, Line 4]
- a uniform configurable running model for a control task of the industrial controller which can be configured flexibly [Col. 3, Lines 38 – 43] wherein
- the running model receives a main clock and means for providing said main clock to said running model by **selecting one** of the clock sources from the group of clock sources consisting of an internal timer of the industrial controller, an internal timer of a communication bus, a clock source within an external device, and a clock source within a technological process. [a system clock utility, Col. 14, Line 51]

Examiner further explains, regarding computer programs, tasks, or software tools are all running in computer system based on the clock of the computer system.

Altschuler does not teach an industrial controller.

Blevins teaches an industrial controller [Col. 1, Lines 5 – 8, Abstract], for the purpose of using of advanced control blocks.

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It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teaching of **Altschuler** to include "an industrial controller", for the purpose of using of advanced control blocks.

Regarding dependent claims 7 and 11,

Altschuler teaches,

- prioritizing the system and user level tasks. [Col. 13, Lines 21 – 36]

Regarding dependent claims 8 and 12,

Altschuler teaches,

- user level tasks are loaded into the at least one user level. [Col. 7, Lines 30 – 38]

Regarding dependent claims 9 and 15,

Altschuler teaches,

- programmed accessing overall functionality from the user programs.

Altschuler does not teach a controller.

Blevins teaches an industrial controller [Col. 1, Lines 5 – 8, Abstract], for the purpose of using of advanced control blocks.

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It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teaching of **Altschuler** to include "an industrial controller", for the purpose of using of advanced control blocks.

Response to Amendment

Claim Objections

4. Applicants cancelled objected claims 1 – 5; The examiner has withdrawn the claim objection.

IDS Objection

5. Applicants submit PTO-1449 form; The examiner has withdrawn the IDS objection.

Claim Rejections - 35 USC § 103

6. Claims 1 – 5 have been cancelled, new claims 6 – 15 have been cited by applicants.

7. Applicants' argument regarding "**Altschuler** does not disclose that the time and date are obtained to generate any type of clock signal" (Page 7, lines 10 – 11) is disagreed with.

Altschuler teaches a system clock utility [Col. 14, Line 51], one with ordinary skill in the art would know that all computer system program, task, software tools are running in computer systems based on the clock signals of the system.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunray Chang whose telephone number is (571) 272-3682. The examiner can normally be reached on M-F 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-746-3506.

Sunray Chang
Patent Examiner
Group Art Unit 2121
Technology Center 2100
U.S. Patent and Trademark Office

September 15, 2005



Anthony Knight
Supervisory Patent Examiner
Group 3600